

United States
Circuit Court of Appeals

For the Ninth Circuit. 16

P. M. JACKSON, Trustee in Bankruptcy for the
Estate of Leonard J. Woodruff, a bankrupt,
Appellant,

vs.

E. A. LYNCH, Receiver in Bankruptcy of the
Estate of Leonard J. Woodruff, Alleged Bank-
rupt,
Appellee.

Transcript of Record

Upon Appeal from the District Court of the United
States for the Southern District of California,
Central Division

FILED

JAN 23 1940

PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

FRANCIS B. COBB, Esq.,
639 S. Spring Street,
Los Angeles, California.

For Appellees, M. E. Heiser,

Petitioning Creditor, and

E. A. Lynch,
Receiver:

RUPERT B. TURNBULL, Esq.,
400 Title Insurance Building,
433 S. Spring Street,
Los Angeles, California.

LEONARD J. MEYBERG, Esq.,
403 Lane Mortgage Building,
Los Angeles, California. [1*]

CITATION

United States of America—ss.

To E. A. Lynch, Receiver in Bankruptcy of the
Estate of Leonard J. Woodruff, Alleged Bank-
rupt, Greeting:

You are hereby cited and admonished to be and
appear at a United States Circuit Court of Appeals
for the Ninth Circuit, to be held at the City of San
Francisco, in the State of California, within forty
days from the date hereof, pursuant to an order

*Page numbering appearing at foot of page of original certified
Transcript of Record.

allowing appeal filed on Nov. 17, 1939, in the Clerk's Office of the District Court of the United States, in and for the Southern District of California, in that certain cause No. 34521-J Bcky. Central Division, Wherein P. M. Jackson, Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, a bankrupt, is appellant and you are appellee to show cause, if any there be, why the decree, order or judgment in the said appeal mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Geo. Cosgrave United States District Judge for the Southern District of California, this 17th day of November, A. D. 1939, and of the Independence of the United States, the one hundred and sixty-fourth.

GEO. COSGRAVE

U. S. District Judge for the Southern
District of California

Service of a copy of the foregoing Citation is acknowledged this 17th day of November, 1939. Received copies of the following: Petition for Appeal, Order Allowing Appeal, Assignment of Errors, Praecipe.

RUPERT B. TURNBULL &
LEONARD J. MEYBERG

By RUPERT B. TURNBULL

By H. JODREY

Attorney for Appellee E. A. Lynch

[Endorsed]: Filed Nov. 17, 1939. [2]

In the District Court of the United States, Southern
District of California, Central Division

In Bankruptcy

No. 34521-J

In the Matter of

LEONARD J. WOODRUFF,

Bankrupt.

CREDITOR'S PETITION IN BANKRUPTCY

To the Honorable Judges of the District Court of
the United States in and for the Southern Dis-
trict of California, Central Division:

The petition of M. E. Heiser respectfully rep-
resents and shows to this Court:

I.

That the above named Leonard J. Woodruff, of
Los Angeles, California, has had for more than
ten years last past and now has his home and place
of residence at 2446 Inverness Avenue and his
domicile in the City of Los Angeles, County of
Los Angeles, and within the Southern District of
the State of California, Central Division of this
Court, and for a longer period of the six months
just immediately preceding the filing of this peti-
tion than in any other judicial District; that said
Leonard J. Woodruff has for more than ten years
last past had his principal place of business at
4532 Hollywood Boulevard, running through to
Sunset Boulevard in the City of Los Angeles,

County of Los Angeles, and within the Southern District of the State of California, Central Division of this Court, and for a longer portion of the six months just past immediately preceding the filing of this petition than in any other judicial district.

II.

That the said Leonard J. Woodruff owes debts to the amount in excess of \$1,000.00, and is not a wage-earner or a farmer, nor [3] engaged principally in the tillage of the soil. That the said Leonard J. Woodruff is the owner and operator of an extensive business situate at 4532 Hollywood Boulevard, running through to Sunset Boulevard, Los Angeles, California, known as "Woodruff Antique Stores," and is a merchant and dealer in antiques and jewelry, and was so engaged during all of the times herein mentioned in this petition and has been so engaged for more than ten years last past.

III.

Your petitioner is a creditor of said Leonard J. Woodruff, having a provable claim against him fixed as to liability and liquidated in amount, said claim being in the sum of \$278,631.71. That your petitioner, as a creditor, has no securities held by him, and said indebtedness is entirely unsecured. That all of said indebtedness aforesaid is past due and unpaid, and said liability of \$278,631.71 has been fixed by a judgment of this Honorable Court

both as to liability and amount; that the nature and extent of the petitioner's said claim is as follows: That in the year 1929 Leonard J. Woodruff wrongfully and fraudulently converted to his own use property of the petitioner consisting of raw sapphires, opals and zircons of the then value of \$164,000.00, which liability has been established by this Court in an action in this District Court wherein petitioner, M. E. Heiser, was and is the plaintiff, and said Leonard J. Woodruff was and is a defendant, under the terms of which judgment of this Court the value of said sapphires was and is fixed at the sum of \$164,000.00, the liability of Leonard J. Woodruff for interest has been and is fixed in the sum of \$113,036.71, and costs of said action taxed against Leonard J. Woodruff in favor of petitioner in the sum of [4] \$1,595.00, making said total judgment in the aggregate sum of \$278,631.71.

IV.

That within four months last past, immediately preceding the filing of this petition, to-wit, more particularly within thirty days next immediately preceding the filing of this petition, the said Leonard J. Woodruff committed an act of bankruptcy in that heretofore on or about the 5th day of July 1939 he did admit in writing this inability to pay his debts and his willingness to be adjudicated a bankrupt.

V.

Petitioner alleges that on the 5th day of July 1939, thereafter continuously, and now, the said Leonard J. Woodruff had, exclusive of indebtedness to his relatives and exclusive of his indebtedness to his employees, in number creditors less than twelve.

VI.

And for a Separate, Second and Distinct Act of Bankruptcy, your petitioner alleges that within ninety days last past, immediately preceding the filing of this petition, the said Leonard J. Woodruff did while insolvent, conceal and secrete, remove, and permit to be removed, concealed and secreted, raw sapphires, opals and zircons of the reasonable market value of over \$30,000.00; that the said concealment and secretion of the same was had by delivery and depositing said raw sapphires, opals and zircons in the name of Howard Woodruff, a son of Leonard J. Woodruff, all with intent to hinder, delay and defraud the creditors of said Leonard J. Woodruff including this petitioner; and that by such concealment, transfer and secreting of said raw sapphires, opals and zircons your petitioner as a creditor was hindered, was delayed and was defrauded, and that at all of the times herein mentioned the said Leonard J. Woodruff was and is insolvent, and is unable to pay his debts as they mature. [5]

Wherefore, your petitioner prays that service of this petition with a subpoena may be made upon

said Leonard J. Woodruff, as provided in the Acts of Congress relating to Bankruptcy, and that he be adjudicated by the Court to be a bankrupt within the purview of said Act.

M. E. HEISER,
Petitioning Creditor.

L. J. MEYBERG,
RUPERT B. TURNBULL,
Attorneys for Petitioning Creditor. [6]

United States of America
State of California
County of Los Angeles—ss.

M. E. Heiser, the petitioner above named, does hereby make solemn oath that the statements contained in the foregoing petition subscribed by him are true.

M. E. HEISER.

Subscribed and sworn to before me this 13th day of July, A. D. 1939.

[Seal]

PAUL JOSEPH,
Notary Public in and for the
County of Los Angeles, State
of California.

[Endorsed]: Filed July 13, 1939. [7]

[Title of District Court and Cause.]

CREDITOR'S PETITION FOR THE
APPOINTMENT OF A RECEIVER

Comes now M. E. Heiser, a creditor of Leonard J. Woodruff, and makes this his application and petition for the appointment of a Receiver in the above entitled matter, and in support of such application shows to the Court as follows:

That this Court, by and through one of its Judges, the Honorable Geo. Cosgrave, did on or about March 20, 1939 render its judgment in favor of your petitioner, M. E. Heiser as plaintiff and against the alleged bankrupt herein as defendant, ordering and giving judgment in favor of petitioner and against the said Leonard J. Woodruff in the total sum of \$278,631.71; that the said judgment is based upon the wrongful, fraudulent and illegal conversion by the said Leonard J. Woodruff of certain raw sapphires; and that the liability of the said Leonard J. Woodruff has become and is a fixed liability in the sum so referred to; that no part of the said judgment has been paid; that at the request of counsel for the said Leonard J. Woodruff your petitioner, through his counsel, stipulated for a stay of execution on said judgment to July 6, 1939.

That immediately prior to the expiration of the said stay of execution the said Leonard J. Woodruff departed from the jurisdiction of this court and is now absent from the jurisdiction of this court; that your petitioner, as a judgment creditor,

has no security of any kind for the payment of said judgment, the whole of which is now due, owing and unpaid, and that your petitioner is a wholly unsecured creditor of the said Leonard J. Woodruff. [8]

That an emergency exists making it absolutely necessary for the appointment of a Receiver in this proceeding to take charge of the assets of Leonard J. Woodruff, marshal said assets, preserve the same from loss and destruction or dissipation by the agents of Leonard J. Woodruff, insure the same, and hold same until *until* the adjudication and subsequent election of a Trustee in Bankruptcy herein; and that the following assets, among others, are in the jurisdiction of this Court situated in the Southern District of California, Central Division, to-wit:

(a) Raw sapphires, opals and zircons of the value of about \$30,000.00 now in the possession of Howard Woodruff, a son of Leonard J. Woodruff, in connection with which the said Howard Woodruff has testified in this court that he is the agent of his father, Leonard J. Woodruff, and holds the same for and subject to the orders of his father, Leonard J. Woodruff. Petitioner alleges that upon orders from Leonard J. Woodruff, the said Howard Woodruff will dispose of said raw sapphires, opals and zircons and place the same beyond the jurisdiction of this court, and that there is every probability of the said Leonard J. Woodruff's giving such order.

(b) That Leonard J. Woodruff is the owner of a large, extensive and successful place of business, situate at 4532 Hollywood Boulevard, running through to Sunset Boulevard, Hollywood, Los Angeles County, State of California, known as the "Woodruff Antique Stores," which place of business is stocked with an extensive store of antiques of great value, to-wit, estimated in excess of \$20,000.00. That it is absolutely necessary that some person in authority and with authority be placed in charge of said business, with authority to operate the same if same can be operated at a profit, and otherwise to store said stock of goods; and petitioner alleges that in this regard an emergency exists, and it is necessary that a receiver be placed in charge of [9] said business so that said stock may not be dissipated, removed, transferred and concealed.

That such stock of goods, as well as said raw sapphires, opals and zircons have not been attached, and no Sheriff or other official is in possession or charge thereof.

That no previous application has been made to this Court for the appointment of a Receiver herein, and so far as is known to petitioner no Receiver has been appointed by any Court.

Wherefore, your petitioner prays that an order may be made herein appointing some competent person as Receiver, with authority to marshal the assets of Leonard J. Woodruff, the bankrupt, within the jurisdiction hereof, to take possession

thereof, insure the same, and with additional authority to operate the business of the bankrupt providing same can be operated at a profit.

Dated July 13, 1939.

(Signed) M. E. HEISER,
Petitioner.

L. J. MEYBERG, (Signed)
RUPERT B. TURNBULL,
Attorneys for Petitioner.

[Endorsed]:

State of California
County of Los Angeles—ss.

M. E. Heiser being by me first duly sworn, deposes and says: that he is the petitioner in the above entitled action; that he has read the foregoing petition and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

M. E. HEISER.

Subscribed and sworn to before me this 13th day of July, 1939.

[Notarial Seal]

PAUL JOSEPH,

Notary Public in and for the County
of Los Angeles, State of California.

[Endorsed]: Filed Jul. 13, 1939. [10]

[Title of District Court and Cause.]

ORDER APPOINTING RECEIVER

On verified petition duly filed, asking for the appointment of a Receiver in the above entitled matter, and it appearing satisfactorily therefrom that it is absolutely necessary for the preservation of the assets of said bankrupt that a Receiver should be appointed, upon motion of Rupert B. Turnbull Attorney for said petitioner,

It is Ordered That E. A. Lynch of Los Angeles, California, be and he is hereby appointed Receiver of all property of whatsoever nature and where-soever located, now owned by or in the possession of said bankrupt, and of all and any property of said bankrupt and in possession of any agent, servant, officer or representative of said bankrupt, care for, inventory, insure, segregate and move all assets of said bankrupt until the appointment and qualification of the Trustee herein, and with the further authority to collect such accounts receivable as are due to said estate and with further authority to conduct the business and sell the same as a going concern, if it can be done with benefit to said estate, and said Receiver is authorized to do all and any such acts and take all and any such proceedings as may enable him forthwith to obtain possession of all and any such property; and

It Is Further Ordered That the Duties and Compensation of said Receiver are hereby specifically extended beyond those of [11] a mere custodian within the meaning of Section 48 of the Bankruptcy

Act to embrace the conduct of the business and marshalling of assets, preparation of inventories, collection, sale and disposition of accounts and notes receivable, and conduct of business of said bankrupt as hereinabove specifically authorized, and

It Is Further Ordered that all persons, firms and corporations including said bankrupt, and all attorneys, agents, officers and servants of said bankrupt forthwith deliver to said Receiver all property of whatsoever nature and wheresoever located, including merchandise, accounts, notes and bills receivable, drafts, checks, moneys, securities and all other choses in action, account books, records, chattels, lands and buildings, life and fire and all other insurance policies in the possession of them or any of them, and owned by said bankrupt, and said bankrupt is ordered forthwith to deliver to said Receiver all and any such property now in the possession of said bankrupt; and

It Is Further Ordered that all persons, firms and corporations, including all creditors of said bankrupt, and representatives, agents, attorneys and servants of all such creditors, and all sheriffs, marshalls, and other officers, and their deputies, representatives and servants are hereby enjoined and restrained from removing, transferring, disposing of or selling or attempting in any way to remove, transfer or dispose of, sell or in any way interfere with any property, assets or effects in possession of said bankrupt or owned by said bank-

rupt, and whether in possession of any officers, agents, attorneys or representatives of said bankrupt, or otherwise and all said persons are further enjoined from executing or issuing or causing the execution or issuance or suing out of any Court of any writ, process, summons, attachment, replevin, or any other proceeding for the purpose of impounding or taking possession or interfering with any property owned by or in possession of [12] said bankrupt or owned by said bankrupt, and whether in possession of any agents, servants or attorneys of said bankrupt, or otherwise; and

It Is Further Ordered that the said Receiver is directed and authorized, as provided under the Postal Laws and Regulations of the United States, to receive all mail matters addressed to the above named bankrupt; and

It Is Further Ordered that before entering upon his duties, said Receiver shall furnish a bond conditioned for the faithful performance of his duties, with a good and sufficient surety or sureties, in the sum of \$20,000.00.

Dated: This 13th day of July, 1939.

WM. P. JAMES,
Judge.

[Endorsed]: Filed Jul. 13, 1939. [13]

[Title of District Court and Cause.]

ANSWER OF ALLEGED BANKRUPT

To the Honorable Judges of the District Court of the United States in and for the Southern District of California, Central Division:

A petition having been filed in the above court on the 13th day of July, 1939, praying that your respondent, the alleged bankrupt above named, be adjudged a bankrupt, your respondent now appears and answers to the said petition as follows:

I.

Respondent denies the allegations contained in paragraphs numbered 1, 5 and 6 of the petition.

II.

Respondent denies the allegations of paragraph 2 of said petition, except the allegations that he owes debts to an amount in excess of \$1,000.00 and is not a wage earner or engaged principally in the tillage of soil and that he is owner of the business situated at 4532 Hollywood Boulevard, running through to Sunset Boulevard, Los Angeles, California, known as "Woodruff Antique Stores."

III.

Respondent admits the allegations of the third paragraph of the said petition insofar as they allege the rendering of a judgment against this respondent in favor of the petitioner by the district court of the United States, Southern District of California, *Dentral* Division, but respondent says

that said judgment was rendered by default, without proper service of summons upon this respondent, that petitioner never had a just cause of action against this respondent, that said judgment is without merit and without right; that this [14] respondent has a good and valid defense to petitioner's purported cause of action; that said judgment should, and respondent believes will, be vacated, set aside and held for naught by the court rendering the same.

IV.

Respondent demands a jury trial upon the allegations contained in the sixth numbered paragraph of said petition, which allegations are specifically denied.

V.

Respondent admits that he is a bankrupt and in connection therewith shows to the court that on the 5th day of July, 1939, he filed his voluntary petition in bankruptcy in the district court of the United States for the Eastern District of Oklahoma, which petition was docketed therein as cause in Bankruptcy No. 7623, and on the 5th day of July, 1931, the Honorable Eugene Rice, judge of said court in bankruptcy, made and entered an order in said cause adjudicating this respondent a bankrupt and made and entered in connection therewith an order of general reference, referring said matter to the Honorable George F. Clark, Referee in Bankruptcy, a copy of said order of adjudication in bankruptcy and order of reference being

hereto attached marked "Exhibit A" and made a part hereof; a certified copy of said order having been filed for record in the office of the county recorder of Los Angeles County, California on July 7, 1939, at 2:46 P. M., and having been duly recorded and now being of record in said office in book 16725 at page 201. In pursuance of said order of adjudication and reference the Honorable George F. Clark as referee in bankruptcy set the first creditors' meeting to be held at Ardmore in Carter County, State of Oklahoma, and in said district on the 20th day of July, 1939, at 10 o'clock A. M. and on the 5th day of July, 1939, said Honorable George F. Clark, as such referee, mailed to the petitioner herein and his attorney at the last known address of the petitioner and his attorney notice of said creditors' meeting. Said creditors' meeting was held in compliance with said notice and at the time and place appointed; the petitioner herein appeared by and through his attorneys, Leonard J. Meyberg and Rupert B. Turnbull of Los Angeles, California, and T. G. Gibson of Ardmore, Oklahoma; the petitioner filed with the referee in bankruptcy at said creditors' meeting his unsecured claim [15] based upon the judgment set out in the third numbered paragraph of his petition herein and upon which this proceeding is predicated and the petitioner by and through his attorney, Hon. T. G. Gibson, participated in the selection of a trustee in bankruptcy and at said meeting Hon. P. M. Jackson of Ardmore, Oklahoma, was

elected trustee in bankruptcy and the said P. M. Jackson has duly qualified as such trustee and is now the duly elected, qualified and acting trustee in bankruptcy of and for this respondent.

VI.

This respondent has had for more than ten years last past and now has his resident, domicile, and principal place of business in the County of Carter, State of Oklahoma and in the Eastern District thereof; the respondent has never resided or had his domicile or principal place of business in Los Angeles County, California, or within the jurisdiction of this court; the respondent has for more than 20 years spent some portion of his time within the jurisdiction of this court on account of and for his health and upon the instructions of his attending physician. This court does not have jurisdiction to entertain this proceeding, the district court of the United States for the Eastern District of Oklahoma having jurisdiction thereof and on account of the matters and things herein set out this proceeding should be dismissed.

VII.

Respondent says that he has more than three creditors and at the creditors meeting held, as aforesaid, at Ardmore in the County of Carter, State of Oklahoma, on the 20th day of July, 1939, there were filed and allowed the claims of more than 20 unsecured creditors, a list of which claims,

showing the names and addresses of the claimant, the amount for which claim was approved, and a brief statement of the nature of the claim, is hereto attached, marked "Exhibit B" and made a part hereof.

VIII.

Respondent further says that even if it should be held and ordered that this court has jurisdiction in this matter than, nevertheless respondent says that the district court of the United States for the Eastern District of Oklahoma, the court in which respondent filed his voluntary petition in bankruptcy July 5, 1939, and in which he was adjudicated a bankrupt on said date, [16] is the court which can proceed with the administration of this bankrupt's estate with the greatest convenience to the parties in interest and to the best interest of the creditors, and this respondent is filing with the district court of the United States for the Eastern District of Oklahoma, his application for an order under general order No. 6, asking the district court of the United States for the Eastern District of Oklahoma, to determine that it is the court which can proceed with the administration of his bankrupt estate with the greatest convenience to the parties in interest, and under said general order No. 6, all proceedings in this court must be stayed until the determination by the district court of the United States for the Eastern District of Oklahoma of the question raised by said applica-

tion. A copy of said application being hereto attached, marked "Exhibit C".

Wherefore, having fully answered, your respondent prays that this proceeding be stayed pending a determination of the question of convenience under general order No. 6 by the district court of the United States for the Eastern District of Oklahoma, and that if upon the determination of said question that court holds that it is the court in which this bankrupt's estate can be administered with the greatest convenience to the parties in interest that this proceeding then be dismissed; but if the district court of the United States for the Eastern District of Oklahoma determines that this court should proceed with the administration of this bankrupt's estate, then this respondent prays that the issues herewith presented be determined by this court and a jury as herein prayed for.

LEONARD J. WOODRUFF,
Respondent.

HIRAM E. CASEY,
CHAMPION, CHAMPION & FISCHL,
Attorneys for Respondent. [17]

State of Oklahoma
County of Carter
Eastern District of Oklahoma

I, Leonard J. Woodruff, the respondent named in the foregoing answer, do hereby make solemn oath that the statements therein are true, according to my knowledge, information and belief.

LEONARD J. WOODRUFF.

Subscribed and sworn to before me this the 25th day of July, 1939.

[Seal]

J. WILLIAM CARNES,

Notary Public,
Ardmore, Okla.

My Commission Expires: Feby. 26, 1943. [18]

“EXHIBIT A”

In the District Court of the United States for the Eastern District of Oklahoma.

In Bankruptcy No. 7623

In Re LEONARD J. WOODRUFF, Ardmore, Oklahoma, Bankrupt.

At Muskogee, Oklahoma, in said District, on the 5th day of July, A. D. 1939, before the Honorable Eugene Rice, Judge of said Court in Bankruptcy, the petition of Leonard J. Woodruff that he be adjudged bankrupt, within the true intent and meaning of the acts of Congress relating to Bankruptcy, having been heard and duly considered, the said Leonard J. Woodruff is hereby declared and adjudged bankrupt accordingly.

It Is Ordered that said matter be referred to George F. Clark one of the Referees in Bankruptcy of this Court, to take such further proceedings herein as are required by said acts of Congress.

(Signed) EUGENE RICE,

Judge.

United States of America
Eastern District of Oklahoma—ss.

I, W. V. McClure, Clerk of the District Court of the United States of America for the Eastern District of Oklahoma, do hereby certify the foregoing to be a true, full, and correct copy of an Order of Adjudication in Bankruptcy as the same appears of record in said Court.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at my office in Muskogee, Oklahoma, in said District, this 5th day of July, A. D. 1939.

[Seal]

W. V. McCLURE,
Clerk.

By ELLIS QUIETT,
Deputy.

[Endorsed]: Filed July 5, 1939, W. V. McClure,
Clerk, U. S. District Court. [19]

“EXHIBIT B”

Name of Claimant	Address	Nature of Claim	Amount
C. F. Dillard	Ardmore, Okla.	Labor	\$500.00
Waldo Duncan	Ardmore, Okla.	Labor	15.00
Sale Coffey	Ardmore, Okla.	Labor & Taxes	50.00
Lon Peevy	Ardmore, Okla.	Labor	44.00
E. L. Franklin	Ardmore, Okla.	Labor & Expenses	40.00
F. Dillard	Ardmore, Oklahoma	Labor	100.00
Carter County Title Co.	Ardmore, Okla.	Prep. of Abstract	17.75
Preston Dawson	Ardmore, Okla.	Prep. of Abstract	16.00
Cortez Craddock	Ardmore, Okla.	Labor	17.50
Jeff Craddock	Ardmore, Oklahoma	Labor & Com.	245.00
Florine Henderson	Wilson, Oklahoma	Cash loan	50.00
R. L. Davis	Wilson, Oklahoma	Com.	75.00
Ollie Anderton	Ardmore, Oklahoma	Labor	150.00
Dr. Walter Johnson	Ardmore, Oklahoma	Medical Services	56.00
W. W. Potter	Ardmore, Oklahoma	Exam. of Abstract	17.50
Cain Miller	Tussy, Oklahoma	Labor for self & team	80.00
Bill F. Womaek	Tussy, Oklahoma	Labor	38.00
C. F. Stinnett	County Line, Okla.	“	12.00
Ben Sutton	Tussy, Oklahoma	“	27.00
W. E. Lambert	Ardmore, Okla.	“	14.50
Paul Newman	Healdton, Okla.	“	35.00
Bill Newman	Healdton, Okla.	“	28.00

Name of Claimant	Address	Nature of Claim	Amount
A. D. Davis	Wilson, Okla.	Note	9,000.00
Ben Darling	Pauls Valley, Okla.	Labor	23.40
R. G. Shrader	Healdton, Oklahoma	"	20.00
W. W. Shrader	Healdton, Oklahoma	"	15.00
H. B. Shrader	Healdton, Oklahoma	"	20.00
H. W. Welch	Ardmore, Oklahoma	Labor on Farm	150.00
			[20]
29. Ida Belle Woodruff	Ardmore, Oklahoma	Borrowed money	59,872.09
30. Herman Woodruff	Pauls Valley, Okla.	Labor	14,000.00
31. Willie Mae Woodruff	Los Angeles, Cal.	Money Due	428,000.00
32. Howard Woodruff	" "	" "	70,000.00
33. Margaret Woodruff	" "	" "	80,000.00
34. Leonard J. Woodruff, Jr.	" "	" "	50,000.00
35. M. E. Heiser	" "	Judgment	278,631.71
36. Oregon State	Salem, Oregon	Borrowed money	25,385.00
School Land Bank	Klamath Falls, Oregon	"	1,000.00
37. Klamath Marsh	Wichita, Kansas	"	2,875.00
38. Federal Land Bank	Ardmore, Oklahoma	"	93,000.00
39. Ida Bell Woodruff	Ardmore, Oklahoma	"	30,365.00
40. Taxes due United States,	Oklahoma, Oregon, California & Iowa		

Explanation of Debts:

None of the labor claimants now employed by bankrupt except Howard Woodruff.

None of the claims secured except as follows: Nos. 36, 37, 38, and 39, secured by real estate mortgages on property located in California, Oregon and Oklahoma.

No. 35 based on judgment rendered in the United States District Court Southern District of California, which bankrupt contends is void, without merit and should be set aside.

The exact amount of bankrupt's debts in most instances are not known to him and the amount of the debts indicated is subject to correction upon ascertainment of proper amount. [21]

“EXHIBIT C”

In the District Court of the United States for the Eastern District of Oklahoma.

In Bankruptcy No. 7623

In the Matter of LEONARD J. WOODRUFF,
Bankrupt.

APPLICATION FOR ORDER UNDER
GENERAL ORDER NO. 6

To the Honorable Judge of the District Court of the United States for the Eastern District of Oklahoma:

Your petitioner, Leonard J. Woodruff, the bankrupt herein, respectfully represents and shows as follows, to-wit:

I.

That he filed his petition in voluntary bankruptcy herein on the 5th day of July, 1939, and was adjudicated a bankrupt on the same day, and on the same day an order of reference was made herein referring the same to the Honorable George F. Clark, referee in bankruptcy.

II.

On the 5th day of July, 1939, the Honorable George F. Clark, referee in bankruptcy, gave notice to the bankrupt's creditors that the first meeting of creditors would be held at Ardmore, Oklahoma, on July 20, 1939, at 10 o'clock A. M., and the first meeting of creditors was held at the time and place appointed by the referee at which meeting P. M. Jackson of Ardmore, Oklahoma, was elected trustee and has qualified as such.

III.

On the 13th day of July, 1939, M. E. Heiser filed in the district court of the United States Southern District of California, central division, his creditor's petition in bankruptcy in which he alleges that this bankrupt is a resident of and has his principal place of business in the City of Los Angeles, Los Angeles County, within the Southern District of the State of California, and in which he asks that

that court adjudicate the bankrupt herein a bankrupt and administer upon his estate as such. A copy of which petition is hereto attached, marked "Exhibit A" and made a part hereof.

IV.

Bankrupt has filed an answer to said creditor's petition in bankruptcy so filed in the district court of the United States for the Southern District of California, central division, a copy of which answer is hereto attached, marked "Exhibit B" and made a part hereof.

V.

Bankrupt says that he has approximately 100 different tracts of land located within the jurisdiction of this court, that most of the records, books and papers pertaining to bankrupt's property are located within the jurisdiction of this court and that a large majority of bankrupt's creditors live within the jurisdiction of this court and that this court is the court which can administer upon his estate with the greatest convenience to the parties interested therein.

Wherefore, bankrupt prays the court for an order under general order No. 6, determining this court to be the court which can administer upon his [22] estate with the greatest convenience to the parties interested therein.

Wherefore, bankrupt prays the court for an order under general order No. 6, determining this

court to be the court which can administer upon his estate with the greatest convenience to the parties interested and that upon the entry of such order the proceedings filed by the petitioner M. E. Heiser in the district court of the United States for the Southern District of California, central division, be ordered dismissed or be ordered transferred to this jurisdiction.

LEONARD J. WOODRUFF,
Petitioner in Bankruptcy.

CHAMPION, CHAMPION & FISCHL,
Attorneys for Bankrupt.

State of Oklahoma
County of Carter
Eastern District of Oklahoma

I, Leonard J. Woodruff, the petitioner named in the foregoing application, do hereby make solemn oath that the statements therein are true, according to my knowledge, information and belief.

LEONARD J. WOODRUFF.

Subscribed and sworn to before me this the 25th day of July, 1939.

[Seal] J. WILLIAM CARNES,
Notary Public,
Ardmore, Okla.

My Commission Expires: Feby. 26, 1943.

[Endorsed]: Filed Aug. 9, 1939. [23]

[Title of District Court and Cause.]

PETITION FOR INSTRUCTIONS BY RECEIVER E. A. LYNCH, PETITION FOR AN ORDER TO IMPOUND.

To the Honorable Judges of the District Court of the United States, Southern District of California, Central Division:

Comes now E. A. Lynch, as receiver of the estate of Leonard J. Woodruff, a bankrupt, and respectfully shows to the Court:

1. That your petitioner, E. A. Lynch, is the duly appointed, qualified and acting receiver of the estate of Leonard J. Woodruff in the Southern District of California, having been appointed by an order of this court dated July 14, 1939.

2. That as receiver your petitioner has taken into actual possession, and his in possession of, a store building situated at the juncture of Hollywood Boulevard and Sunset Boulevard, which your petitioner alleges he was informed was purchased by the bankrupt at the cost of approximately \$225,000.00. That your petitioner as such has taken possession of the stock in trade of merchandise in four stores located in said building known as Woodruff Antique Stores, consisting of, first, general stock of antiques, reproductions and imitations, pictures, prints, coppers, etc.; second, a stock of Oriental goods; third, a stock of Indian goods and Indian baskets, saddles, etc.; fourth, stock of firearms and a collection of medieval arms and objects of warfare.

There is in existence no inventory of said stock, which are very extensive. That there is no memorandum or books from which it can be ascertained what the cost of said merchandise was, or of its present value. The property was not insured at the time of bankruptcy and your petitioner has been uncertain as to the amount of [24] insurance to be placed thereon, but has covered it for fire loss purposes at the present time in the amount of \$..... That your petitioner has no inventory and so notified the insurance companies carrying said fire loss insurance policies.

That your petitioner has heretofore petitioned this court for authority to instruct one of his counsel to examine the bankrupt concerning the nature, extent and value of the properties reduced to possession by your receiver, and pursuant to an order made by this court in that behalf your receiver has caused Rupert B. Turnbull, one of his counsel, to proceed to Ardmore, Oklahoma, for the examination for the purpose of obtaining information from the bankrupt by examination to be conducted before the referee in bankruptcy, the Honorable George F. Clark. That a bankruptcy proceeding is pending in the Eastern District of Oklahoma relating to the same bankrupt herein, Leonard J. Woodruff, and the matter has been referred, both specially and generally, as referee and special master, to the Honorable George F. Clark, sitting at Ardmore, Carter County, Oklahoma. That Rupert B. Turnbull, did proceed to Ardmore, Oklahoma,

and appeared on behalf of your receiver and one of his attorneys, before the Honorable George F. Clark, referee in bankruptcy, sitting in the District Courtroom in the Federal Building, at Ardmore, Oklahoma, on Friday, the 11th day of August, 1939. That at said time, the said bankrupt, Leonard J. Woodruff, was present. Said Rupert B. Turnbull having theretofore communicated with the said referee in bankruptcy requested the production of the bankrupt at such time. That at such time and upon the calling of the Court at 1:30 P. M. on the 11th day of August, 1939, substantially, but not verbatim, the following occurred:

By Mr. Turnbull: May I proceed?

By the Court: Yes.

By Mr. Turnbull: My name is Rupert B. Turnbull and I represent to the Court at this time that there is pending in the Southern District [25] of California, in the District Court at that place, an involuntary proceeding against Leonard J. Woodruff. In that proceeding the Court has made its order appointing E. A. Lynch as receiver. In support of that statement I hand your Honor herewith a certified copy of the order appointing E. A. Lynch as receiver. (Thereupon there was handed to the Court a certified copy of the order made by this court appointing E. A. Lynch receiver). I represent to your Honor that I am one of the attorneys employed by that receiver, E. A. Lynch, pursuant to an order of that court. I hand you herewith in support of that statement a copy of the

order of the District Court of Southern District of California, authorizing such employment. I represent to your Honor that I now appear as the attorney for said receiver, E. A. Lynch, and pursuant to an order of the District Court of the Southern District of California authorizing E. A. Lynch to instruct me to appear here and examine Leonard Woodruff concerning the nature, extent and value of the property in the Southern District of California, and for the purpose of properly preserving, inventorying and insuring that property adequately, I ask the privilege of examining the said Leonard Woodruff at this time for the limited purpose as I have stated.

That at said time Leonard Woodruff was in the courtroom available for such examination. That at such time he was represented by his counsel, Champion, Champion, and Fischel. That Louis Fischel arose and addressed the Court on behalf of the bankrupt and stated to the Court that the receiver in the California Court was an interloper, had no rights before the Oklahoma Courts, and that this, the District Court for Eastern Oklahoma, should refuse him any rights of examination of the bankrupt for any purposes. Thereupon Rupert B. Turnbull, acting as attorney for E. A. Lynch, stated to the Court, truthfully, that the receiver in California was in a very uncomfortable position in that he had been ordered by the District Court in Southern California to merger, preserve and insure [26] the property. That he

thought he was entitled to the aid of the bankrupt and the knowledge of the bankrupt concerning the nature, extent and value of these antiques and other collections, and also with respect to other property which had been located by the receiver, which property belonged to the bankrupt, which is not inventoried in the bankrupt schedules as filed in the District Court in the Eastern District of Oklahoma. Thereupon the court sustained the objection of counsel for bankrupt and refused permission to *Rupert B. Turnbull*, acting as attorney for the receiver, *E. A. Lynch*, to examine the bankrupt, *Leonard J. Woodruff*, notwithstanding that he was personally present at the Court at the said time.

Your petitioner is informed by his counsel, *Rupert B. Turnbull*, who is also counsel for petitioning creditor and another creditor herein, that during the examination of the bankrupt at Ardmore, Oklahoma, on the 11th and 12th days of August, 1939, *Leonard Woodruff* was called as a witness in a proceeding challenging the jurisdiction of the Eastern District of Oklahoma to administer the estate of bankrupt, which proceeding was instituted by *M. E. Heiser*, a judgment creditor having a provable claim in the form of a final judgment of this court against the bankrupt in the sum of \$278,663.21 and joined in by *George F. Fowler*, a creditor having a provable claim of \$31,000.00. That the said *Leonard J. Woodruff* under oath testified that he had purchased the building housing

Woodruff Antique Stores of Los Angeles, California at a cost of \$225,000.00, and that there was in the basement of the home of the bankrupt's wife where the bankrupt has been living for several years last past at 2446 Inverness Avenue, Los Angeles, California, a collection of archeological antiques dug from Panama ruins, and other antiques which had previously been in the store on Hollywood Boulevard, to-wit: Woodruff Antique Stores, which collections and antiques were of the value of approximately \$50,000.00. Your petitioner alleges that the building in which said basement occurred is claimed to be owned by [27] the wife of Leonard J. Woodruff but that said stock is part of the stock of bankrupt's stores. Your petitioner trustee, as receiver, desires an order authorizing him to take possession of said antiques stored in the basement in the house at 2446 Inverness Avenue, and an order from this Court authorizing the United States Marshal to give to your receiver *suck* aid as may be necessary to remove from said basement of said house the said antiques.

Your petitioner alleges that all of the family of the bankrupt have removed from 2446 Inverness Avenue, and are now at Ardmore, Oklahoma, and that the said residence in Los Angeles is in the sole possession and custody of a Chinese cook named Wong.

Your petitioner, as receiver, requests instructions of this Court as to the extent to which he shall expend funds for the inventorying, preserv-

ing and insuring the antiques in the store on Hollywood Boulevard and Sunset Boulevard, as well as those in the basement in the home at 2446 Inverness. Your petitioner alleges that the stock is so extensive that your petitioner recommends that for the purpose of inventorying, it be divided into three classes; first, the class of antiques and collections of the greatest value; second, a medium-priced class of goods and antiques and imitations and reproductions of lesser value within prescribed limitation of maximum and minimum value; and third, a class of miscellaneous prints, secondhand and junk material.

Wherefore, your petitioner, as receiver, prays that the Court give him instructions as to a conduct in the above entitled matters, and issue its Orders in that regard for the marshaling, protection, preservation, and insuring of such and other properties within this jurisdiction.

(Signed) E. A. LYNCH,

E. A. Lynch, as Receiver of the
Estate of Leonard Woodruff, a
Bankrupt.

RUPERT B. TURNBULL,

LEONARD MEYBERG,

Attorneys for Receiver. [28]

State of California,

County of Los Angeles—ss.

E. A. Lynch being by me first duly sworn, deposes and says that he is the petitioner in the above en-

titled action; that he has heard read the foregoing petition and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon information or belief, and as to those matters that he believes it to be true.

E. A. LYNCH.

Subscribed and sworn to before me this 17th day of August, 1939.

[Notarial Seal]

GEORGE A. JUDSON,

Notary Public in and for the County
of Los Angeles, State of California.

[Endorsed]: Filed Aug. 17, 1939. [29]

[Title of District Court and Cause.]

ORDER MADE UPON RECEIVER'S PETI-
TION FOR INSTRUCTIONS AND ORDER
FOR SEIZURE AND IMPOUNDING OF
CERTAIN PROPERTY.

The verified petition of the receiver, E. A. Lynch, to the Court that there is pending not only in this District a petition in bankruptcy against Leonard J. Woodruff, but there is also pending a petition by the bankrupt in the Eastern District of Oklahoma, all of which facts were originally disclosed to this Court upon the filing of the original creditors' petition herein, and it appearing that the question of jurisdiction as to which District Court is to

handle the primary estate of the bankrupt is a question which has not yet been decided, a portion of said jurisdictional question being now pending and undecided in the Eastern District of Oklahoma, and it appearing that this Court has heretofore directed the receiver, E. A. Lynch, to marshal, impound and insure the property in the Southern District of California;

Now Therefore It Is Hereby Ordered that the receiver herein, E. A. Lynch, having the marshaling, care and insurance protection of the assets of the debtor in Southern California, proceed forthwith to inventory the extensive stock of antiques, second hand goods, Indian and Oriental goods, arms collections, paintings, and archaeological exhibits, now situated in the stores known as the "Woodruff Antique Stores," at Los Angeles, California, now in the possession of the receiver, and also to inventory the antiques in the basement of the residence at 2442 Inverness Avenue, Los Angeles, in the following manner:

To inventory and appraise as Class A the more expensive and valuable art objects, oriental, Indian and archaeological goods, [30] and arms collections, etc;

To inventory and appraise as Class B the medium or lesser priced articles; and,

In the lower or third class, second hand materials, junk, and miscellaneous articles, to inventory and appraise, if necessary, only by lots or groups

without the necessity of individually writing up and appraising each of the lesser groups.

It Is Further Ordered upon ascertaining the value of such property, said receiver, if necessary, cover any additional valuation shown by inventory and appraisal by adequate fire insurance on the building housing said antiques on Hollywood and Sunset Boulevards, in Los Angeles, forthwith.

It Is Further Ordered that said Receiver, E. A. Lynch, take into his possession and impound the antiques and archaeological collections which may now be in the basement of the residence at 2442 Inverness Avenue, and for the purpose of taking possession thereof, it appearing that the said residence is now unoccupied but is in charge of a Chinese cook known as "Wong", that the United States *Marshal* of this District give such aid as may be necessary to place the receiver in possession of such property and permit the said receiver to remove the same to a fireproof warehouse segregated from any other assets of the bankrupt so that the same may be inventoried and appraised and impounded.

Dated August 17th, 1939, at 11 A. M.

(Signed) PAUL J. McCORMICK,
United States District Judge.

[Endorsed]: Filed Aug. 17, 1939. [31]

Department of Justice, United States District
Court, Office of the Clerk, Eastern District of
Oklahoma.

Muskogee, Oklahoma, October 16, 1939.

Hon. R. S. Zimmerman,
Clerk U. S. District Court,
Southern District of California.

In re: In the Matter of Leonard J. Woodruff, No.
7623 in Bkr., Bankrupt.

Dear Sir:

Enclosed herewith is Duplicate Original Order
under General Order No. 6 in the above styled and
numbered cause in this court, for your files in the
your No. 34521 J in Bankruptcy.

This order has no certification thereto attached
for the reason that it is a duplicate original and
bears the genuine signature of this Court.

Respectfully,
W. V. McCLURE,
By MAGGIE JO DAGLEY,
Deputy.

Encl. 1/1-O. [32]

In the United States District Court for the Eastern District of Oklahoma.

In Bankruptcy No. 7623.

In the Matter of LEONARD J. WOODRUFF,
Bankrupt.

(Filed Oct. 16, 1939—W. V. McClure, Clerk U. S. District Court.)

Now, on this the 16th day of October, 1939, this matter comes on for hearing before the undersigned District Judge at Muskogee, Oklahoma, after due, reasonable and proper notice to all interested parties, upon the application of bankrupt and of the creditors C. F. Dillars, et al, for an order under general order No. 6, finding that this court can proceed with the administration of the bankrupt's estate with the greatest convenience to the parties interested. The bankrupt appearing in person and by his attorney, Thos. W. Champion, and the creditors, C. F. Dillard, et al, appearing by their attorney, W. W. Potter, and the trustee, P. M. Jackson, appearing in person, and no other appearances being made either in person or by counsel. Thereupon the Court proceeded to hear said application and the evidence in support thereof, and having heard the same and being advised in the premises, the court finds that the Eastern District of Oklahoma is the domicile of the bankrupt and that the bankrupt intends to continue making said district his domicile, that a large part of the property of the bankrupt is located in said District; that the

available records, books and papers with respect to bankrupt's business are located in said District; that the majority of the creditors in number both secured and unsecured, reside in said District, and that creditors holding claims in considerable amounts reside in said District; that the bankrupt has 80 or 90 different tracts of land in said District which require the attention of the trustee in renting, managing and in collecting the rents therefrom, and other property therein; that this District was the domicile and principal place of business of the bankrupt for the greater part of the six months immediately *proceeding* the filing of the petition in bankruptcy herein, and that this is the court which can proceed with the administration of bankrupt's estate with the greatest convenience to the parties interested in said estate.

The Court further finds that on the 13th day of July, 1939, M. E. Heiser, one of the creditors of bankrupt, filed an involuntary petition in bankruptcy in the United States District Court for the Southern District of California, Central Division, being cause No. 34521-J in Bankrupt therein and that E. A. Lynch was appointed receiver in said action and is now acting as such receiver; that said proceeding should be transferred to this Court and this judicial district and should be consolidated with this case and that the trustee should take *charge* of all of the property of the bankrupt including that located in California.

It Is Therefore Ordered, Adjudged and Decreed that the United States District Court for the Eastern District of Oklahoma is the bankruptcy court which can proceed with the administration of bankrupt's estate with the greatest convenience to the parties interested therein. [33]

It Is Further Ordered, Adjudged and Decreed that cause No. 34521-J in bankruptcy, being in the matter of Leonard J. Woodruff bankrupt, in the United States District Court, Southern District of California, Central Division, be and the same is hereby ordered transferred to this court and consolidated with this cause.

It Is Further Ordered, Adjudged and Decreed that the trustee herein immediately assume and take charge of all of the property of the bankrupt wherever located and that the possession of such trustee be exclusive until otherwise ordered by this court.

(Signed) EUGENE RICE,

District Judge.

[Endorsed]: Filed Oct. 16, 1939. W. V. McClure, Clerk, U. S. District Court.

[Endorsed]: Filed Oct. 18, 1939. [34]

In the District Court of the United States, Southern District of California, Central Division.

In Bankruptcy No. 34521-J.

In the Matter of

LEONARD J. WOODRUFF,

Bankrupt.

ORDER DIRECTING CLERK TO STAY TRANSMISSION OF RECORDS TO CLERK OF EASTERN DISTRICT OF OKLAHOMA UNTIL THE DETERMINATION OF COSTS OF ADMINISTRATION IN THIS JURISDICTION: ORDER REQUIRING RECEIVER TO FILE HIS REPORT AND ACCOUNT AND PETITION FOR COMPENSATION, AND REQUIRING ATTORNEYS FOR THE RECEIVER TO FILE THEIR PETITION FOR COMPENSATION HEREIN

It appearing to this Court by the filing in the office of the Clerk thereof, at Los Angeles, California, of copy of an order made October 16, 1939, by the Honorable Eugene Rice, one of the Judges of the District Court of the United States for the Eastern District of Oklahoma in the Matter of Leonard J. Woodruff, Bankrupt, Numbered 7623 in said Court for the Eastern District of Oklahoma, that the said Court has made an order purporting to be made under General Order No. 6, and it appearing further that the basis for making of said order by the said District Court for the

Eastern District of Oklahoma is either the finding or the assumption on the part of said Court that the District Court of the United States for the Southern District of California, to-wit this Court, has jurisdiction as well as the District Court for the Eastern District of Oklahoma with respect to the bankruptcy proceedings of Leonard J. Woodruff, Bankrupt; and it further appearing to this Court from its records in this cause that this Court has heretofore appointed a Receiver herein, E. A. Lynch, at a time when it was absolutely necessary for a Receiver to take charge of and marshal, preserve and [35] recover and care for the assets of Leonard J. Woodruff, and that said Receiver has obtained instructions from this Court concerning his conduct as well as has received suggestions from P. M. Jackson, Trustee in Bankruptcy in the matter of the estate of Leonard J. Woodruff, Bankrupt, as well as has had suggestions in respect to his duties concerning the taking of an inventory and making an appraisalment from the Honorable George F. Clark, one of the Referees in Bankruptcy in the District Court for the Eastern District of Oklahoma, to whom the proceeding in said Oklahoma court in the matter of Leonard J. Woodruff bankruptcy has been generally *referred* for administration; and it further appearing to this Court that the Court has made its order authorizing the employment of counsel for the Receiver, who have rendered services for the benefit of the estate and for the benefit of the creditors; and the

said Receiver having not yet filed his report and account, nor a statement of his expenses, nor having been discharged, nor having had his compensation fixed, allowed or paid, and there having been no opportunity yet for the filing of such report, Now Therefore,

It Is Hereby Ordered that the Clerk of the District Court of the United States for the Southern District of California, Central Division, stay the transmittal of the records in this proceeding as the same exist in this jurisdiction until such time as this Court shall have made its further orders approving, or disapproving, the report and account filed by the Receiver as appointed by this Court, and shall have made the allowance to the Receiver and to his attorneys for compensation and for expenses, and shall have made an order with respect to the payment thereof;

It Is Further Ordered that the Receiver appointed by this Court, E. A. Lynch, prepare and file within five days from date of this order his report and account, and petition for compensation, as Receiver herein, and within the same time that the attorneys [36] for the Receiver employed under order of this Court prepare and file their report and petition for compensation;

It Is Further Ordered that thereupon the Clerk of this Court, upon receipt of said petition and report, place the matter on the calendar of this Court for the first possible date, after causing to be given at least ten days notice of the date of such

hearing, and of the filing of such report and account and petitions, to the following interested parties, to wit:

(a) The bankrupt, Leonard J. Woodruff, c/o Mr. Hiram T. Casey, his attorney, Rowan Building, Los Angeles, California;

(b) To the bankrupt, Leonard J. Woodruff, c/o his attorneys in Oklahoma, Messrs. Champion, Champion & Fischl, Ardmore, Oklahoma;

(c) To the Trustee in Bankruptcy appointed by the Eastern District of Oklahoma court, Mr. P. M. Jackson, Trustee, Ardmore, Oklahoma;

(d) To each of the persons who are listed as his creditors in the Answer of Leonard J. Woodruff filed in these proceedings in this Court, including the petitioning creditor M. E. Heiser;

(e) To the Honorable George F. Clark, Referee in Bankruptcy, District Court of the United States for the Eastern District of Oklahoma, McAllister, Oklahoma.

Dated: October 19th, 1939.

GEORGE COSGRAVE,

Judge of United States District Court for the Southern District of California, Central Division.

[Endorsed]: Filed Oct. 19, 1939. [37]

In the District Court of the United States for the
Eastern District of Oklahoma.

In Bankruptcy. No. 7623.

In the Matter of LEONARD J. WOODRUFF,
Bankrupt.

ORDER APPOINTING ATTORNEY FOR
TRUSTEE

Upon consideration of the verified application of P. M. Jackson, Trustee in Bankruptcy herein, for authority to employ Francis B. Cobb, attorney of Los Angeles, California, to represent said Trustee in the matter of the application of E. A. Lynch for compensation and expenses as Receiver and for compensation of said Receiver's attorneys, which application is pending in the District Court of the United States for the Southern District of California, Central Division; and it appearing from said application that said attorney, Francis B. Cobb, represents no interest adverse to the Receiver, the Trustee or the estate in the matter upon which he is to be engaged; and that his employment would be to the best interest of the estate,

It Is Ordered that the Trustee be, and he is hereby, authorized to employ the said Francis B. Cobb as his attorney to represent the Trustee in the matter of the application of the said E. A. Lynch for compensation and expenses for himself and his attorneys, as aforesaid.

Dated at McAlester, said District, this the 30th day of October, 1939.

GEO. F. CLARK,

Referee in Bankruptcy.

[Endorsed]: Filed Oct. 30, 1939. Geo. F. Clark, Referee. [38]

United States of America

Eastern District of Oklahoma—ss.

I, Geo. F. Clark, Referee in Bankruptcy at McAlester, said Eastern District of Oklahoma, do hereby certify the foregoing to be a true, full and correct copy of Order Appointing Attorney for Trustee, in re Leonard J. Woodruff, Bankrupt, Cause No. 7623 now on file in my office.

Witness my hand at McAlester, said District, this October 30, 1939.

GEO. F. CLARK,

Referee in Bankruptcy.

[Endorsed]: Filed Nov. 2, 1939. [39]

[Title of District Court and Cause.]

MOTION TO VACATE EX PARTE ORDER OF
OCTOBER 19, 1939, STAYING TRANSMIT-
TAL OF RECORDS.

To E. A. Lynch, Receiver in the Above Entitled
Proceeding, and to His Attorneys of Record,
Rupert B. Turnbull and Leonard J. Meyberg:

You, and each of you, will please take notice that
on the 6th day of November, 1939, at the hour of

10 o'clock A. M., or as soon thereafter as counsel may be heard, P. M. Jackson, as Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, a Bankrupt, in case numbered 7623 now pending in the District Court of the United States for the Eastern District of Oklahoma, through his attorney of record, Francis B. Cobb, will make a motion before the Honorable Geo. Cosgrave, Judge of the above entitled court, at Room 1, Federal Building, Los Angeles, California, for an order setting aside and vacating that certain order entered on the 19th day of October, 1939, staying transmittal of records in this proceeding, and all proceedings taken thereunder, upon the ground that a voluntary petition in bankruptcy was filed by Leonard J. Woodruff in the District Court of the United States for the Eastern District of Oklahoma on the 5th day of July, 1939, and thereafter on or about the 13th day of July, 1939 the above entitled proceeding was filed, and that thereafter on October 16th, 1939 a proceeding was had under General Order No. 6 before the District Court of the United States for the Eastern District of Oklahoma, after which proceeding an order was entered determining that the said Eastern District of Oklahoma could proceed with the greatest convenience to all parties in interest and that all future proceedings should be had before said court, and direct- [40] ing the clerk of said court to transmit a copy of said order to the clerk of this court, reference to said copy

being hereby made for more particulars. That by reason of said proceeding had under General Order No. 6 and said order of October 16th, 1939, the order made by this court ex parte on October 19th, 1939 was in violation of the General Orders in Bankruptcy, and the Bankruptcy Act as amended, and the rules of this court, and that the same is void and of no force and effect, and that the above entitled court has no jurisdiction to act in any further proceedings in the above entitled matter, but only has jurisdiction to transmit the records of the proceeding herein to the District Court of the United States for the Eastern District of Oklahoma.

You are further notified that said motion will be made upon the copy of the order of the District Court of the United States for the Eastern District of Oklahoma filed in the files in the above entitled proceeding on October 18th, 1939, and upon the files and records of the proceedings herein.

Dated this 2nd day of November, 1939.

FRANCIS B. COBB,

Attorney for P. M. Jackson, Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, in case No. 7623 now pending in the District Court of the United States for the Eastern District of Oklahoma.

639 So. Spring St., Los Angeles, Calif.

Points and Authorities:

- General Order No. 6;
Section 32 of the Bankruptcy Act;
Rules of Civil Procedure, Rule 7, Subdivision (b).
In re So. States Finance Co. 19 Fed. (2d) 959.
Gross vs. Irving Trust, 289 U. S. 342.
-

Good cause appearing, the time for the service of the within motion is hereby shortened so that the same may be served on or before November 2nd, 1939.

Nov. 2, 1939.

GEO. COSGRAVE,
Judge.

[Endorsed]: Filed Nov. 2, 1939. [41]

In the District Court of the United States, Southern District of California, Central Division.

No. 34521-J. Bkcy.

In the Matter of

LEONARD J. WOODRUFF,

Alleged Bankrupt.

MEMORANDUM OF ORDER.

Cosgrave, District Judge.

Leonard J. Woodruff was adjudicated a bankrupt on his voluntary petition therefor in the Eastern

District of Oklahoma on July 5, 1939, and P. M. Jackson since has been appointed trustee of the bankrupt estate. On July 13, 1939 an involuntary petition seeking the adjudication of Leonard J. Woodruff as a bankrupt was filed in the Southern District of California. On petition setting up legal necessity therefor, E. A. Lynch was appointed receiver under the involuntary petition by the California court, and authorized to employ counsel. A considerable amount of real, as well as personal property, the latter being an extensive store for the sale and rental of antiques, was located in California, and the receiver was authorized to operate this business.

On October 16, 1939, the court in Oklahoma, acting under General Order in Bankruptcy No. 6, after application therefor and hearing on such application, found the Eastern District of Oklahoma to be the domicile of the bankrupt during the required period, and also found it to be the principal place of business of the bankrupt, and because of these and other entirely sufficient reasons, that court found that it is the court which can proceed with the administration of the bankrupt's estate with the greatest convenience to the parties interested. The court then by its decree adjudged accordingly, and by its order transferred the case pending in the Southern District of California to the Eastern District of Oklahoma, and consolidated it with the case pending in the last named district.

Mr. Lynch, the receiver in California, does not question [42] the effectiveness of the decision of the Oklahoma court, since it was the first to acquire jurisdiction, but he insists that this court must settle his account as receiver before the case is transferred. Immediately after the filing in the office of the Clerk of this court of a certified copy of the decree of the Oklahoma court, Mr. Lynch procured an *ex parte* order delaying the execution of the decree of the Oklahoma court until his said account is settled. Mr. Jackson, trustee in the Oklahoma proceeding, now moves this court to set aside its order staying the transfer of the case, and instead to order such transfer forthwith. The question presented, therefore, is whether this court has jurisdiction and duty to settle the account of the California receiver before the case is transferred to the Eastern District of Oklahoma.

The involuntary petition filed in California alleges that the residence, domicile, and principal place of business of the bankrupt is in this district. The Oklahoma court finds that the domicile and principal place of business of the bankrupt is in the Eastern District of Oklahoma.

It is plain that the California court is not without jurisdiction in the premises. The District Court may:

“adjudge persons bankrupt who have had their principal place of business, resided or had their domicile within their (the court’s) respective

territorial jurisdiction for the preceding six months." Bankruptcy Act 2, a (1).

In fact, the order of the Oklahoma court presumes this to be the case for that order is based on General Order No. 6:

"If two or more petitions are filed by or against the same person * * * in different courts, EACH OF WHICH HAS JURISDICTION * * * etc."

which General Order is itself based on Section 32 of the Bankruptcy Act (11 U. S. C. 55):

"In the event petitions are filed by or against the same person * * * in different courts of bankruptcy, EACH OF WHICH HAS JURISDICTION, the case shall, by order of the court first acquiring jurisdiction, be transferred to and consolidated [43] in the court which can proceed with the same for the greatest convenience of parties in interest."

It was a matter of uncertainty at the time that the involuntary petition was filed in California in which jurisdiction the administration of the estate finally would be had.

It is true that the California proceeding is not ancillary to that in Oklahoma, (Bankruptcy Act, 2, a (20), 69, c, General Order 51) within the meaning of the Bankruptcy Act.

The action here invoked by the California receiver is not in the administration of the bankrupt

estate as such. It must be assumed that on the showing made in his petition this court exercised a sound discretion in the appointment of a receiver. Plainly, it was a part of prudence to insure the property and keep it intact. A duty is imposed on every court, having property in its possession, to preserve the same and to control and to compensate its own officers in the performance of their duties with respect to such property.

The motion of Mr. Jackson must be denied, and it is so ordered.

November 15, 1939.

[Endorsed]: Filed Nov. 15, 1939. [44]

At a stated term, to wit: The September Term, A. D. 1939, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Wednesday the 15th day of November in the year of our Lord one thousand nine hundred and thirty-nine.

Present:

The Honorable: Geo. Cosgrave, District Judge.

No. 34,521-J Bkey

In the Matter of

LEONARD J. WOODRUFF,

Alleged Bankrupt.

This matter having come before the Court on November 8, 1939, for hearing on motion of P. M. Jackson, as Trustee for the Estate of Leonard J. Woodruff, Bankrupt, in case No. 7623 now pending in District Court of United States for Eastern District of Oklahoma, to vacate ex parte order of October 19, 1939, staying transmittal of records, pursuant to motion filed November 2, 1939, and having been argued and submitted on briefs on file forthwith, and having been duly considered by the Court, the Court now files its "Memorandum of Order", and pursuant thereto, the motion of Mr. Jackson is denied. [45]

[Title of District Court and Cause.]

PETITION FOR APPEAL

To the Honorable Geo. Cosgrave, District Judge:

P. M. Jackson, Trustee in Bankruptcy for Leonard J. Woodruff, a bankrupt, feeling aggrieved by an Order entered in the above entitled matter on October 19th, 1939, entitled "Order Directing Clerk to Stay Transmission of Records to the Clerk of the Eastern District of Oklahoma Until the Determination of Costs of Administration in This Jurisdiction, Order Requiring Receiver to File His Report and Account and Petition for Compensation, and Requiring Attorneys for the Receiver to File Their Petition for Compensation", and a Memoran-

dum of Order and Minute Order entered in the above entitled matter on November 15th, 1939, denying the trustee's motion to vacate and set aside said previous order of October 19th, 1939, does hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from said orders and each of them and from the whole and each part thereof, for the reasons set forth in the assignment of errors filed herewith, and prays that his appeal be allowed, and that a citation in accordance with law be issued, and that the record and documents on which said proceedings and orders were based, duly authenticated, may be sent to said Circuit Court of the United States for the Ninth Circuit under the rules of said court, in such cases provided.

FRANCIS B. COBB

Attorney for Petitioner and Appellant

[Endorsed]: Filed Nov. 17, 1939. [46]

[Title of District Court and Cause.]

ASSIGNMENT OF ERRORS

Now comes P. M. Jackson, Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, a Bankrupt, and files the following assignment of errors upon which he will rely in his prosecution of the appeal in the above entitled matter from an Order entered on October 19th, 1939 and from a Memorandum of Order and Minute Order of November 15th, 1939.

I.

The Court erred in entering the Order of October 19th, 1939, after proceedings were had under Section 32 of the Bankruptcy Act and under General Order No. 6 in the District Court for the Eastern District of Oklahoma and said last mentioned court had determined that the best interests of all parties would be served by the administration of the estate of Leonard J. Woodruff in Oklahoma.

II.

The Court erred in attempting to exercise jurisdiction over the assets of this estate through its receiver, where Leonard J. Woodruff had been adjudicated a bankrupt in Oklahoma before the filing of the involuntary petition in the above entitled proceeding.

III.

The Court erred in ordering the receiver and his attorneys to file the reports and petitions for fees before the transmittal of the records of the proceedings herein to the District Court of Oklahoma.

[47]

IV.

The Court erred and exceeded its jurisdiction in restraining the Clerk of the District Court from transmitting the records of these proceedings to the District Court in Oklahoma.

V.

The Court erred in entering the order of October 19th, 1939, without notice to the attorney of record for the alleged bankrupt and the appellant herein.

VI.

The Court erred and exceeded its jurisdiction in proceeding to settle the receiver's report and the receiver's attorneys' fees.

VII.

The Court erred in denying the trustee's motion to vacate said order of October 19th, 1939, where said order was void and the court had lost jurisdiction, and said order was entered in violation of the Bankruptcy Act and the General Orders in Bankruptcy.

Wherefore the said appellant prays that the said orders of October 19th, 1939, and November 15th, 1939, be reversed and said District Court of the United States for the Southern District of California, Central Division, be ordered to forthwith transmit the records of the proceedings herein to the District Court of Oklahoma, and appellant be granted such relief and orders as may appear proper to the Circuit Court of Appeals for the Ninth Circuit.

FRANCIS B. COBB

Attorney for Appellant.

[Endorsed]: Filed Nov. 17, 1939. [48]

[Title of District Court and Cause.]

NOTICE OF APPEAL

To E. A. Lynch, Receiver in the Above Entitled Proceeding, and to His Attorneys of Record, Rupert B. Turnbull and Leonard J. Meyberg, and to the Honorable Geo. Cosgrave, Judge of the United States District Court:

P. M. Jackson, Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, a bankrupt, feeling aggrieved by a decree and order entered on October 19th, 1939 and by a memorandum of order and minute order entered by the above entitled court on November 15th, 1939 denying the trustee's motion to vacate and set aside said previous order of October 19th, 1939, does hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit, pursuant to Sections 24 and 25 of the Bankruptcy Act as amended, and General Orders in Bankruptcy No. 36, from each of said orders and each portion thereof.

Your petitioner prays that the proper record on appeal, as provided under Rule 75 of the Federal Rules of Civil Procedure, be docketed in this appeal and be heard and determined as provided by law.

Dated this 17th day of November, 1939.

FRANCIS B. COBB

Attorney for Appellant.

Copy of above Notice mailed to Rupert B. Turnbull and Leonard J. Meyberg, Attys. for E. A. Lynch, receiver, Nov. 18, 1939.

R. S. ZIMMERMAN,
Clerk,

By E. L. S.
Deputy

[Endorsed]: Filed Nov. 17, 1939. [49]

[Title of District Court and Cause.]

ORDER ALLOWING APPEAL

Upon motion of Francis B. Cobb, attorney for P. M. Jackson, Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, a bankrupt,

It Is Hereby Ordered that an appeal to the Circuit Court of the United States for the Ninth Circuit from an order entered by this court on the 19th day of October, 1939, and from a memorandum of order and minute order entered by this court on the 15th day of November, 1939, be and the same is hereby allowed, and a certified copy of the transcript of the record and all proceedings be forthwith transmitted to the Circuit Court of the United States for the Ninth Circuit.

It Is Further Ordered that pursuant to Section 25, subdivision b, of the Bankruptcy Act as amended, that P. M. Jackson, as trustee, shall not be required to give bond herein.

Dated this 17th day of November, 1939.

GEO. COSGRAVE

District Judge

[Endorsed]: Filed Nov. 17, 1939. [50]

[Title of District Court and Cause.]

APPELLANT'S STATEMENT OF THE
POINTS ON WHICH HE INTENDS TO
RELY ON THE APPEAL.

P. M. Jackson, Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, a Bankrupt, does hereby designate the points on which he intends to rely on the appeal in the above entitled matter, as follows:

I.

The Court erred in entering the order of October 19th, 1939, after proceedings were had under Section 32 of the Bankruptcy Act and under General Order No. 6 in the District Court for the Eastern District of Oklahoma and said last mentioned court had determined that the best interests of all parties would be served by the administration of the estate of Leonard J. Woodruff in Oklahoma.

II.

The Court erred in attempting to exercise jurisdiction over the assets of this estate through its receiver, where Leonard J. Woodruff had been adjudicated a bankrupt in Oklahoma before the filing

of the involuntary petition in the above entitled proceeding.

III.

The Court erred in ordering the receiver and his attorneys to file the reports and petitions for fees before the transmittal of the records of the proceedings herein to the District Court of Oklahoma.

IV.

The court erred and exceeded its jurisdiction in restrain- [51] ing the Clerk of the District Court from transmitting the records of the proceedings to the District Court of Oklahoma.

V.

The Court erred in entering the order of October 19th, 1939, without notice to the attorney of record for the alleged bankrupt and the appellant herein.

VI.

The Court erred and exceeded its jurisdiction in proceeding to settle the receiver's report and the receiver's attorneys' fees.

VII.

The Court erred in denying the trustee's motion to vacate said order of October 19th, 1939, where said order was void and the Court had lost jurisdiction, and said order was entered in violation of the Bankruptcy Act and the General Orders in Bankruptcy.

Dated this 17th day of November, 1939.

FRANCIS B. COBB

Attorney for Appellant

[Endorsed]: Filed Nov. 17, 1939. [52]

[Title of District Court and Cause.]

ORDER SETTLING AND DESIGNATING
THE RECORD ON APPEAL.

P. M. Jackson, Trustee in Bankruptcy, having appealed from an order of this court on October 19th, 1939, and an order entered on November 15th, 1939, and having designated in writing certain records to be contained in the record on appeal, and E. A. Lynch, Receiver in the above entitled matter, having objected to the appellant's designation and having made counter designations, and P. M. Jackson, through his attorney Francis B. Cobb, having filed a written motion for this court to settle the differences between counsel and to designate the proper records and documents to constitute the proper record on appeal, and the matter having been argued by Francis B. Cobb, attorney for P. M. Jackson, and by Rupert B. Turnbull, attorney for E. A. Lynch, the court now enters the following order:

It Is Hereby Ordered that the following stipulated facts, documents, petitions and orders shall constitute the record on appeal to be certified by

the clerk of this court to the clerk of the United States Circuit Court of Appeals for the Ninth Circuit:

1. Creditors' Petition in Bankruptcy filed July 13, 1939.

2. Answer of Alleged Bankrupt filed August 9, 1939.

3. Order Under General Order No. 6 with letter attached, by the District Court for the Eastern District of Oklahoma filed October 18, 1939.

4. Order of October 19, 1939, en- [53] titled Order Directing Clerk to Stay Transmission of Records to the Clerk of the Eastern District of Oklahoma Until the Determination of Costs of Administration in This Jurisdiction, Order Requiring Receiver to File His Report and Account and Petition for Compensation, and Requiring Attorneys for the Receiver to File Their Petition for Compensation. Filed October 19, 1939.

5. Motion to Vacate Ex Parte Order of October 19, 1939, Staying Transmittal of Records. Filed November 2, 1939.

6. Order Appointing Attorney for Trustee. Filed November 2, 1939.

7. Memorandum of Order and Minute Order of November 15, 1939. Filed November 15, 1939.

8. Petition for Appeal and Notice of Appeal.

9. Order Allowing Appeal.

10. Assignment of Errors.

11. Appellant's Statement of the Points on Which he Intends to Rely on the Appeal.

12. Copy of this Order Settling and Designating the Record on Appeal.

13. Petition for the Appointment of the Receiver.

14. Order Appointing Receiver.

15. Petition by Receiver for Instructions.

16. Order of the Court Made on Receiver's Petition and Instructions. [54]

It Is Further Found That the following facts were stipulated to in open court on the date of the hearing of the motion of P. M. Jackson to vacate the order of October 19th, 1939, and said stipulations are ordered included in said record, said stipulated facts being:

1. That if Rupert B. Turnbull was called as a witness he would now testify that an appeal has been perfected from the order of Judge Eugene Rice of the District Court of the United States of the Eastern District of Oklahoma to the United States Circuit Court of Appeals for the Tenth Circuit, purporting to be made under General Order 6. That it be deemed that said Turnbull has been called and so testified, and that it was further stipulated that Leonard Woodruff, Bankrupt, petitioned voluntarily in the Eastern District of Oklahoma to be, and was, adjudicated on the sole ground that Woodruff had his principal place of business there.

2. That the petitioning creditor in the above entitled proceeding, M. E. Heiser, had actual

knowledge at the date of the filing of the involuntary proceeding herein that Leonard J. Woodruff had filed a voluntary petition in Oklahoma on July 5, 1939, and that an order of adjudication had been entered thereon on July 5, 1939, which fact was then orally communicated to the District Judge at Los Angeles, California.

Dated this 7th day of December, 1939.

GEO. COSGRAVE

District Judge

Approved as to form only.

RUPERT B. TURNBULL

Attorney for Receiver.

[Endorsed]: Filed Dec. 7, 1939. [55]

[Title of District Court and Cause.]

CLERK'S CERTIFICATE

I, R. S. Zimmerman, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing pages, numbered from 1 to 55, inclusive, contain original Citation and full, true and correct copies of Petition in Bankruptcy; Petition for appointment of a Receiver; Order appointing Receiver; Answer of Bankrupt; Petition for Instructions by Receiver, and Petition for Order to Impound; Order of Instructions for impounding; Order under General

Order No. 6; Order staying transmission of records; Order appointing attorney for trustee; Motion to vacate ex parte order of Oct. 19, 1939; Memorandum of Order; Order, Minute, of Nov. 15, 1939; Petition for Appeal; Assignments of Error; Notice of Appeal; Order Allowing Appeal; Appellant's Statement of Points, and Order Settling and Designating Record on Appeal, which constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I Do Further Certify that the fees of the Clerk for comparing, correcting and certifying the foregoing record amount to \$9.05, and that said amount has been paid me by the Appellant herein.

Witness my hand and the Seal of the District Court of the United States for the Southern District of California, this 19th day of December, A. D. 1939.

[Seal]

R. S. ZIMMERMAN,

Clerk

By EDMUND L. SMITH

Deputy Clerk.

[Endorsed]: No. 9401. United States Circuit Court of Appeals for the Ninth Circuit. P. M. Jackson, Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, a bankrupt, Appellant, vs. E. A. Lynch, Receiver in Bankruptcy of the Estate of Leonard J. Woodruff, Alleged Bankrupt, Appellee. Transcript of Record. Upon Appeal from

the District Court of the United States for the Southern District of California, Central Division.

Filed December 21, 1939.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 9401

In the Matter of

LEONARD J. WOODRUFF,

Alleged Bankrupt.

APPELLANT'S STATEMENT OF THE
POINTS ON WHICH HE INTENDS TO
RELY ON THE APPEAL.

P. M. Jackson, Trustee in Bankruptcy for the Estate of Leonard J. Woodruff, a bankrupt, does hereby designate the points on which he intends to rely on the appeal in the above entitled matter, as follows:

I.

The Court erred in entering the order of October 19th, 1939, after proceedings were had under Section 32 of the Bankruptcy Act and under General Order No. 6 in the District Court for the Eastern District of Oklahoma and said last mentioned court

had determined that the best interests of all parties would be served by the administration of the estate of Leonard J. Woodruff in Oklahoma.

II.

The Court erred in attempting to exercise jurisdiction over the assets of this estate through its receiver, where Leonard J. Woodruff had been adjudicated a bankrupt in Oklahoma before the filing of the involuntary petition in the above entitled proceeding.

III.

The Court erred in ordering the receiver and his attorneys to file the reports and petitions for fees before the transmittal of the records of the proceedings herein to the District Court of Oklahoma.

IV.

The Court erred and exceeded its jurisdiction in restraining the Clerk of the District Court from transmitting the records of the proceedings to the District Court of Oklahoma.

V.

The Court erred in entering the order of October 19th, 1939 without notice to the attorney of record for the alleged bankrupt and the appellant herein.

VI.

The Court erred and exceeded its jurisdiction in proceeding to settle the receiver's report and the receiver's attorneys' fees.

VII.

The Court erred in denying the trustee's motion to vacate said order of October 19th, 1939, where said order was void and the Court had lost jurisdiction, and said order was entered in violation of the Bankruptcy Act and the General Orders in Bankruptcy.

Dated this 19th day of December, 1939.

FRANCIS B. COBB

Attorney for Appellant

Received copy of the within Appellant's Statement this 19th day of December, 1939.

RUPERT B. TURNBULL &

LEONARD J. MEYBERG

By RUPERT B. TURNBULL

By H. JODREY.

[Endorsed]: Filed Dec 21 1939. Paul P. O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

DESIGNATION OF CONTENTS OF
RECORD ON APPEAL.

To the Honorable Curtis D. Wilbur, Presiding Justice, and the Associate Justices of the United States Circuit Court of Appeals for the Ninth Circuit.

Pursuant to rules of practice of this Court, the appellant, P. M. Jackson, Trustee in Bankruptcy

for the Estate of Leonard J. Woodruff, bankrupt, does hereby designate the following documents, orders, judgments and records in the proceedings to be contained in the record on appeal in the above entitled matter, said documents being as follows:

1. Creditors' Petition in Bankruptcy filed July 13, 1939.
2. Answer of Alleged Bankrupt filed August 9, 1939.
3. Order Under General Order No. 6 with letter attached by the District Court for the Eastern District of Oklahoma filed October 18, 1939.
4. Order of October 19, 1939, entitled Order Directing Clerk to Stay Transmission of Records to the Clerk of the Eastern District of Oklahoma Until the Determination of Costs of Administration in This Jurisdiction, Order Requiring Receiver to File His Report and Account and Petition for Compensation, and Requiring Attorneys for the Receiver to File Their Petition for Compensation. Filed October 19, 1939.
5. Motion to Vacate Ex Parte Order of October 19, 1939, Staying Transmittal of Records. Filed November 2, 1939.
6. Order Appointing Attorney for Trustee. Filed November 2, 1939.
7. Memorandum of Order and Minute Order of November 15, 1939. Filed November 15, 1939.
8. Petition for Appeal and Notice of Appeal.
9. Order Allowing Appeal.
10. Assignment of Errors.

11. Appellant's Statement of the Points on Which he Intends to Rely on the Appeal.
12. Copy of Order Settling and Designating the Record on Appeal.
13. Petition for the Appointment of a Receiver.
14. Order Appointing Receiver.
15. Petition by Receiver for Instructions.
16. Order of the Court Made on Receiver's Petition and Instructions.
17. This Designation.

Dated this 19th day of December, 1939.

FRANCIS B. COBB

Attorney for Appellant

Received copy of the within Designation this 19th day of December, 1939.

RUPERT B. TURNBULL and

LEONARD J. MEYBERG

RUPERT B. TURNBULL

By H. JODREY

Attorneys for Receiver

[Endorsed]: Filed Dec 21 1939. Paul P. O'Brien,
Clerk.

[Title of Circuit Court of Appeals and Cause.]

COUNTER DESIGNATION OF CONTENTS
OF RECORD ON APPEAL

To the Honorable Curtis D. Wilbur, Presiding Justice, and the Associate Justices of the United States Circuit Court of Appeals for the Ninth Circuit:

Comes now E. A. Lynch as receiver of the Estate of Leonard J. Woodruff, bankrupt, appellee herein, and files this, his objection to the designation of contents of record on appeal as filed by the appellant P. M. Jackson, and files this, his Counter Designation of Contents of Record on Appeal.

Appellee does designate the following documents, orders, records and stipulations in the proceedings to be contained in the record of appeal in the above entitled matter, in addition to the documents designated by the appellant, to-wit:

The stipulations of the parties had in open court on the date of the hearing of the motion of P. M. Jackson to vacate the order of October 19, 1939, which said stipulations were ordered included in the record by the order of the District Judge, the Honorable George Cosgrave, said stipulated facts being recited in said order and being as follows:

1. That if Rupert B. Turnbull was called as a witness he would now testify that an appeal has been perfected from the order of Judge Eugene Rice of the District Court of the United States of the Eastern District of Okla-

homa to the United States Circuit Court of Appeals for the Tenth Circuit, purporting to be made under General Order 6. That it be deemed that said Turnbull has been called and so testified, and that it was further stipulated that Leonard Woodruff, Bankrupt, petitioned voluntarily in the Eastern District of Oklahoma to be, and was, adjudicated on the sole ground that Woodruff had his principal place of business there.

2. That the petitioning creditor in the above entitled proceeding, M. E. Heiser, had actual knowledge at the date of the filing of the involuntary proceeding herein that Leonard J. Woodruff had filed a voluntary petition in Oklahoma on July 5, 1939, and that an order of adjudication had been entered thereon on July 5, 1939, which fact was then orally communicated to the District Judge at Los Angeles, California.

The foregoing is contained in the order of the District Judge entered December 7, 1939, entitled "Order Settling and Designating the Record on Appeal".

LEONARD J. MEYBERG

RUPERT B. TURNBULL

Attorneys for E. A. Lynch,
Receiver, Appellee.

Served copy on Hiram Casey, Atty. for Bankrupt and

Served copy on Francis Cobb, Atty. for P. M. Jackson December 21st, 1939, by Rupert B. Turnbull. See separate affidavit of service.

Attorney for E. A. Lynch, Receiver, Appellee.

[Endorsed]: Filed Dec 23 1939. Paul P. O'Brien, Clerk.